

**PT 99-62**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>EMERSON PARK DEVELOPMENT CORP. )</b>	<b>A.H. Docket #</b>	<b>98-PT-0037</b>
<b>Applicant )</b>		
<b>)</b>	<b>Docket #</b>	<b>Please see attachment.</b>
<b>v. )</b>		
<b>)</b>	<b>Parcel Index #</b>	<b>Please see attachment.</b>
<b>)</b>		
<b>THE DEPARTMENT OF REVENUE )</b>	<b>Barbara S. Rowe</b>	
<b>OF THE STATE OF ILLINOIS )</b>	<b>Administrative Law Judge</b>	

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Kathleen O'Keefe of the Neighborhood Law Office for Emerson Park Development Corporation.

Synopsis:

The hearing in this matter was held in Collinsville, Illinois on August 27, 1998, to determine whether or not St. Clair County Parcel Index Nos. 02-07.0-419-003, 02-07.0-419-004, 02-07.0-419-005, 02-07.0-407-031, 02-07.0-419-031, 02-07.0-419-032, 02-07.0-419-033, 02-07.0-419-034, 02-07.0-419-035, 02-07.0-419-036, 02-07.0-412-023, 02-07.0-412-025, 02-07.0-412-026, 02-07.0-407-035, 02-07.0-407-036, 02-18.0-226-013, 002-07.0-419-025, 02-07.0-419-026, 02-07.0-419-027, 02-18.0-221-018, 02-18.0-221-019, and 02-18.0-221-020 qualified for exemption during the 1997 assessment year.

Vicki Forby, Executive Director, and Richard Suttle, President, of Emerson Park Development Corporation, (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcels at issue during the 1997 assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether these parcels were used by the applicant for charitable purposes during the 1997 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned these parcels during different portions of the 1997 year. It is also determined that the applicant is a charitable organization. Finally, it is determined that the applicant did not use some of the parcels for charitable purposes during the 1997 assessment year. It is also determined that the applicant used some of the parcels at issue for exempt purposes for a portion of the 1997 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that St. Clair County Parcel Index Nos. 02-07.0-419-003, 02-07.0-419-004, 02-07.0-419-005, 02-07.0-407-031, 02-07.0-419-031, 02-07.0-419-032, 02-07.0-419-033, 02-07.0-419-034, 02-07.0-419-035, 02-07.0-419-036, 02-07.0-412-023, 02-07.0-412-025, 02-07.0-412-026, 02-07.0-407-035, 02-07.0-407-036, 02-18.0-226-013, 002-07.0-419-025, 02-07.0-419-026, 02-07.0-419-027, 02-18.0-221-018, 02-18.0-221-019, and 02-18.0-221-020 did not qualify for a property tax exemption for the 1997 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 10. (Tr. p. 21)

2. On December 16, 1997, the Department received a property tax exemption application from the St. Clair County Board of Review for Permanent Parcel Index Nos. 02-07.0-419-003, 02-07.0-419-004, and 02-07.0-419-005. The applicant had submitted the request and the board recommended granting an exemption for the period of March 19, 1997, through December 31, 1997, of the 1997 assessment year. The Department assigned Docket No. 97-82-38 to the application. (Dept. Grp. Ex. No. 2)

3. On December 16, 1997, the Department received a property tax exemption application from the St. Clair County Board of Review for Permanent Parcel Index No. 02-07.0-407-031. The applicant had submitted the request and the board recommended granting an

exemption for the period of March 19, 1997, through December 31, 1997, of the 1997 assessment year. The Department assigned Docket No. 97-82-39 to the application. (Dept. Grp. Ex. No. 3)

4. On December 16, 1997, the Department received a property tax exemption application from the St. Clair County Board of Review for Permanent Parcel Index Nos. 02-07.0-419-031, 02-07.0-419-032, 02-07.0-419-033, 02-07.0-419-034, 02-07.0-419-035, and 02-07.0-419-036. The applicant had submitted the request and the board recommended granting a full year exemption for the 1997 assessment year. The Department assigned Docket No. 97-82-42 to the application. (Dept. Grp. Ex. No. 4)

5. On December 16, 1997, the Department received a property tax exemption application from the St. Clair County Board of Review for Permanent Parcel Index Nos. 02-07.0-412-023, 02-07.0-412-025, 02-07.0-412-026, 02-07.0-407-035, 02-07.0-407-036, and 02-18.0-226-013. The applicant had submitted the request and the board recommended granting an exemption for the period of July 7, 1997, through December 31, 1997, for the 1997 assessment year. The Department assigned Docket No. 97-82-43 to the application. (Dept. Grp. Ex. No. 5)

6. On December 16, 1997, the Department received a property tax exemption application from the St. Clair County Board of Review for Permanent Parcel Index Nos. 002-07.0-419-025, 02-07.0-419-026, and 02-07.0-419-027. The applicant had submitted the request and the board recommended granting a full year exemption for the 1997 assessment year. The Department assigned Docket No. 97-82-44 to the application. (Dept. Grp. Ex. No. 6)

7. On, March 5, 1998, the Department received a property tax exemption application from the St. Clair County Board of Review for Permanent Parcel Index Nos. 02-18.0-221-018, 02-18.0-221-019, and 02-18.0-221-020. The applicant had submitted the request and the board recommended granting an exemption for the period of March 19, 1997, through December 31, 1997, for the 1997 assessment year. The Department assigned Docket No. 97-82-59 to the application. (Dept. Grp. Ex. No. 7)

8. On March 26, 1998, the Department denied the requested exemption applications for Docket Nos. 97-82-38, 97-82-39, 97-82-42, and 97-82-44 finding that the properties were not in exempt use. (Dept. Grp. Ex. No. 8)

9. On April 16, 1998, the Department denied the requested exemption application for Docket No. 97-82-59 finding that the properties were not in exempt use. (Dept. Grp. Ex. No. 8)

10. On April 23, 1998, the Department denied the requested exemption applications for Docket No. 97-82-43 finding that the properties were not in exempt use. (Dept. Grp. Ex. No. 8)

11. On April 13 and 27, 1998, the applicant timely protested the denials of the exemptions and requested a hearing in the matters. (Dept. Ex. No. 9)

12. The hearing at the Illinois Department of Transportation Building, 1100 Eastport Plaza Drive, Collinsville, Illinois on August 27, 1998, was held pursuant to that request. (Dept. Ex. No. 10)

13. The applicant was incorporated under the General-Not-for-Profit Corporation Act of the State of Illinois on May 24, 1989, with a purpose clause that states:

The purposes for which the Corporation is organized are charitable purposes, within the meaning of Section 501(c)(3) of the United States Internal Revenue Code (or the correspondence of any future United States Internal Revenue Code), which includes the social, physical and economic development of the community residents who reside in the Emerson Park neighborhood in the city of East St. Louis. (Dept. Grp Ex. No. 2 p. 18; Tr. p. 27)

14. The applicant is exempt from the payment of federal income tax pursuant to a 501(c)(3) designation granted by the Internal Revenue Service on April 13, 1995. (Dept. Grp. Ex. No. 2 pp. 26-28; Tr. p. 25)

15. The applicant is exempt from the payment of Illinois sales tax on any sales to the corporation pursuant to the finding by the Department that the applicant is

organized and operated exclusively for charitable purposes as defined by the Illinois Retailers' Occupation Tax and related tax acts. (Dept. Ex. No. 2 p. 29; Tr. p. 25)

16. The Bylaws of the applicant state that the purpose of the organization is:

To address economic and social problems in the Emerson Park neighborhood of East St. Louis, Illinois. The group works on the following issues:

1. Street Repair: Blocked sewage lines, poor streets and street lighting.
2. Beautification: Excessive trash on property, lots and alleys; demolition and removal of abandoned and collapsed houses; creation of mini-parks.
3. Housing: working in coalition with other organizations to create low and moderate income housing.
4. Skills Training: Sponsoring and organizing workshops to provide skills in areas for fundraising, media, and a variety of issue areas including drugs, energy conservation, pollution and crime.
5. Police and fire protection: Holding meeting with enforcement's officers to assure the needs of the neighborhood are being voiced.
6. Education: To accomplish its goals EPDC (the applicant) engages in public education, education of the news media and hands on development projects. (Dept. Grp. Ex. No. 2 p. 9; Tr. p. 27)

17. Membership in the applicant is open to all residents of the Emerson Park neighborhood of East St. Louis, Illinois. Any person who completes a membership form that states that s/he has read and/or understands the goals and work of the applicant and pays annual membership dues as set by the board of directors may be a voting member of the applicant. Dues may be waived due to financial hardship. (Dept. Grp. Ex. No. 2 pp. 9-10; Tr. pp. 28-29)

18. The applicant has no capital, nor does it have any stock or shareholders. The income for the applicant comes from federal and private grants that the applicant obtains through the various agencies that distribute them. The applicant does not earn profits or dividends. (Tr. pp. 30-31, 37)

19. During the time period around the 1997 assessment year, the applicant received a grant from the Urban Resources partnership to help fund land clearance. The grant was for \$50,000.00 initially for an 18-month period, to begin in September 1996. The applicant received

another grant of the same amount that overlapped the first. They also received a grant from the Greater East St. Louis Community Fund in the amount of \$39,900.00. Another grant was received to restore the Cannady park area in the amount of \$100,000.00. Thirty-five thousand dollars was received for the pumpkin patch and Christmas tree farm projects. The applicant also received four Casino Queen mini grants in the amount of \$1,000.00 apiece. (Dept. Ex. No. 2 pp. 20-21; Tr. pp. 31-33, 36)

20. East St. Louis, Illinois has fallen into a state of ruin in the last 20 years with more than 1,500 derelict structures and hundreds of lots filled with trash and debris. Emerson Park is a 55-block area of East St. Louis. In Emerson Park, trash is dumped on properties. Abandoned properties result in lots which are filled with debris and inhabited by wild dogs, rats, and other vermin. The health of the residents of the area is threatened. The local government does not have sufficient funding to clear the mountains of trash, debris, derelict, and abandoned structures that are there. (Dept. Ex. No. 9; Tr. pp. 21-25, 37-42, 92-93, 102)

21. Most of the properties that the applicant owns are acquired at a county auction. The applicant owned between 62 and 82 parcels at the time of the hearing. Some parcels have been donated to the applicant. The applicant works closely with the city to encourage delinquent landlords to maintain their properties. (Tr. pp. 89-102)

22. In 1990, the University of Illinois hosted the East St. Louis Action Project in which university students removed over 10,000 tires from Emerson Park. The East St. Louis Action Project is put together with the Department of Urban Planning, the Department of Landscape Architecture, and the School of Architecture of the College of Fine Arts of the University of Illinois. Those entities needed funding and went to the Illinois Senate for money. The Senate would only agree to fund the project if something was done to help the East St. Louis area. The East St. Louis Action Project was created. It now includes the Colleges of Law, Business Administration, Engineering, and Nuclear Sciences. In May, and September through December of every year, 200 University of Illinois students clear land and carry out projects in

the neighborhood of the applicant. In the summer, various programs have people available to help the applicant with land clearance. (Tr. pp. 24-25, 45-47, 102-106)

23. The Emerson Park neighborhood of East St. Louis is going to house the largest “park and ride” Metrolink Station on the line. Due to this fact in part, the residents of the neighborhood banded together to form the applicant to improve the living conditions of the area with the hope that once the region is rid of drugs, prostitution, and crime, reinvestment and redevelopment would begin in the neighborhood. The primary use of the subject properties by the applicant at the time of the hearing was clearing and maintaining. The applicant joined with the Lessie Bates Davis Neighborhood House, Catholic Urban Programs, and the East Side Heart and Home to develop affordable housing for low and very low-income families. (Dept. Ex. No. 2 p. 23; Tr. pp. 22-23, 93)

24. The executive director of the applicant became involved with the organization as a student with the University of Illinois. Her office is located in the Lessie Bates Davis Neighborhood House. Applicant’s meetings are also held in the house. The applicant pays no rent for their use of the house. The Lessie Bates Davis Neighborhood House is an old Methodist settlement house from which a social service agency is run. Utility and rent assistance is available there. Clothing and food drives are held there. Housekeepers are available to help the elderly with chores, getting medicines, and preparing meals. A day care center and a welfare-to-work program are also available there. (Tr. pp. 25-28, 104-105)

25. The applicant operates the Neighborhood-Based Family Housing Program. The program is a partnership of Catholic Urban Programs, Lessie Bates Davis Neighborhood House, the Family Center, and East Side Heart and Home. The Neighborhood-Based Family Housing Program is a housing program similar to the one run by Habitat for Humanity except that the persons who purchase the homes are approved for an Illinois Housing Development Authority (hereinafter referred to as IHDA) mortgage rather than purchasing the house with a bond for deed. The applicant obtains the approval for the IHDA mortgage. For the program, the applicant does an extensive rehabilitation of a home in the Emerson Park area, up to \$25,000.00

per house. The homes are appraised anywhere from \$50,000.00 to \$65,000.00. They are sold to the families for \$45,000.00 with a subsidy from the Community Development Block Grant. The applicant rehabilitated six homes through that program. (Tr. pp. 34-35)

26. The applicant started out as a neighborhood association that was reporting street lights that were out, manhole covers that were missing, and street signs that had been stolen and turned in for recycling. The applicant has evolved into an entity that has acquired properties that have been neglected for years and have reverted to the St. Clair County Trustee for nonpayment of taxes. The applicant then clears the properties of trash, debris, and derelict structures with grant money. Every time the applicant has a parcel cleared the contractor, as part of the clearance price paid by the applicant, applies a good brand of grass seed and straw to hold down the seed so it won't blow away. The applicant maintains the properties to make sure they stay free of debris, weeds, and undergrowth. The applicant's use of the properties beautifies the neighborhood and removes health and safety hazards. The clean-up activities also address social issues and criminal activity in the neighborhood and attempt to decrease the number of drug dealers, gang members, thieves, prostitutes, and vagrants that engage in illegal activities and take shelter in the derelict properties. The cleanup activities have contributed to a reduction of 30% in the amount of crime in the area. (Dept. Ex. No. 9; Tr. pp. 55-56, 63-70; 94-102, 118-130)

27. The applicant purchases lots to develop low income housing units. During the summer of 1997, the applicant was able to build four 1100 square foot homes for \$55,000, secured a \$15,000.00 subsidy for each home, and sold the homes to four low-income families for \$40,000.00 apiece<sup>1</sup>. Families in applicant's program must attend a home maintenance program that includes budgeting classes. The family is assigned a mentor from the neighborhood who is a homeowner. The applicant has over 200 applications for its homes. It is currently working with First Illinois Bank to get applications approved for the mortgages. The applicant plans to build a minimum of eight homes a year. (Dept. Ex. No. 2 p. 7)

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<sup>1</sup> Those properties are not included in the ones at issue herein.



28. On March 18, 1997, the applicant acquired Parcel Index Nos. 02-07.0-419-003, 02-07.0-419-004, and 02-07.0-419-005 by a quitclaim deed from St. Clair County<sup>2</sup>. The lot size of Docket No. 97-82-38 is 163.5' x 198'. The parcels were overgrown with trees and contained large amounts of trash. Parcel Index No. 02-07.0-419-003 is commonly known as 1306 Winslanley Avenue and is 59.25' x 198'. It will hereinafter be referred as File No.1. (Please see attachment to this recommendation for the list and references to File Nos.) Parcel Index No. 02-07.0-419-004 is commonly known as 1308 Winslanley Avenue (hereinafter referred to as "File No. 2"). Parcel Index No. 02-07.0-419-005 is commonly known as 1310 Winslanley Avenue (hereinafter referred to as "File No. 3"). (Dept. Ex. No. 2 pp. 1-6; Applicant's Ex. No. 26; Tr. pp. 48-51, 59)

29. In May, 1997 students from the University of Illinois cleared undergrowth and trash from the lots represented by File Nos. 1-3. Neighborhood residents helped keep the land cleared with the applicant's lawn tractor and brush hog that were purchased with grant money. In September, 1997 the applicant hired C. Belt Excavating to remove a buried foundation and hundreds of saplings from the lots. Tons of trash were also removed including sofas, furniture, and tires. The three parcels were consolidated into St. Clair County Parcel Index No. 02-07.0-419-043 in 1998. The lots had been consolidated to form two 65-foot lots and one 20-foot lot. The 20' lot is to be combined with a corner lot in the future. A survey was completed of the lots in April, 1998 and footings were staked. (Applicant's Ex. No. 25; Tr. pp. 45-53, 59)

30. File No. 1 and ½ of File No. 2<sup>3</sup>, were consolidated into a 65' lot that became part of St. Clair County Parcel Index No. 02-07.0-419-043 in 1998. In May, 1998 footings and a foundation were poured for a new home for a low-income family. At the time of the hearing, a house had been erected on the property. The family that purchases the home must be qualified through the applicant's Neighborhood-Based Family Housing Program. The family will

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<sup>2</sup> The conveyance was from the St. Clair County, Trustee pursuant to the authority given by the County Board of St. Clair County, Illinois, under a resolution duly adopted on February 24, 1997.

<sup>3</sup> The lot size of ½ of Parcel Index No. 02-07.0-419-004 is approximately 26' x 198'.

probably take possession of the home between the 4<sup>th</sup> and 16<sup>th</sup> of November, 1998. (Applicant's Ex. Nos. 4 & 25; Tr. pp. 53-56)

31. File No. 3 and ½ of file No. 2<sup>4</sup> were also consolidated into a 65' lot that became part of St. Clair County Parcel Index No. 02-07.0-419-043 in 1998. In May, 1998 footings and a foundation were poured for a new home for a low-income family. At the time of the hearing, a house had been erected on the property. The family that purchases the home must be qualified through the applicant's Neighborhood-Based Family Housing Program. The family will probably take possession of the home between the 4<sup>th</sup> and 16<sup>th</sup> of November, 1998. (Applicant's Ex. Nos. 5 & 25; Tr. pp. 53-56)

32. The applicant acts as its own builder. It is organized under IHDA as a not-for-profit corporation that is also a community-development corporation. The houses are built through the Neighborhood-Based Family Housing Program, which is a partnership of the Methodists, Catholics, Emerson Park, and the East Side Heart and Home. The applicant is not reimbursed for the cost of the real estate that is donated to the families purchasing the house. For a family of three, the income level would have to be between \$14,500.00 and \$28,000.00 to qualify. (Tr. pp. 107-110)

33. The applicant uses the same or lower criteria as Habitat for Humanity for the families that it allows to purchase the homes available. Volunteers from the Methodist Church, the Catholic Church, and the University of Illinois build the houses. The houses are erected in a "blitz build" which is the same process that Habitat for Humanity uses. The house is built in seven weeks. Each house costs approximately \$60,000.00. The applicant gets a subsidy from the city of \$15,000.00 to write down the cost of the houses. (Tr. pp. 110-112)

34. East St. Louis also qualifies for the tax increment financing federal program that allows a purchaser of the home to reduce their taxes by one-third. (Tr. p. 112)

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<sup>4</sup> The lot size of ½ of file #2 is approximately 26'x198'; the lot size of file # 3 is 52.125'x198'.

35. Also on March 18, 1997, the applicant acquired Parcel Index No. 02-07.0-407-031 by a quitclaim from St. Clair County<sup>5</sup>. The parcel is 25'x120'7" and is commonly known as 1200-1211 North 11<sup>th</sup> Street (hereinafter referred to as "File No. 4"). University of Illinois students cleared the property of trash, debris, and undergrowth in late April, 1997. Mowing began in May, 1997. At the time of the hearing it was a vacant lot. (Dept. Grp. Ex. No. 3 pp. 1-4; Applicant's Ex. Nos. 6 & 25; Please see attachment)

36. On July 26, 1996, the applicant acquired Parcel Index Nos. 02-07.0-419-031 through 036 by a Quit Claim Deed from St. Clair County<sup>6</sup>. Docket No. 97-82-42 represents a 199'x 88' area. The parcels are commonly known as 1101-1109 North 14<sup>th</sup> Street (hereinafter referred to by "File Nos. 5-10"). In September, 1996 students from the University of Illinois cleared undergrowth and trash from approximately six feet of the front of the lots represented by File Nos. 5-10 so that residents could walk along the sidewalk. Residents using the applicant's bush hog and lawn tractor then mowed the six-foot area. In September, 1997 the applicant hired C. Belt Excavating to remove derelict structures, slabs, saplings, and trash from the lots represented by File Nos. 5-10. Since the clearance, the properties are mowed by residents using the applicant's equipment (Dept. Grp. Ex. No. 4 pp. 1-7; Applicant's Ex. No. 25; Tr. pp. 61-74; Please see attachment.)

37. The tract represented by File No. 5 is 40'x 88'. The St. Clair County Parcel Index No. for the file is 02-07.0-419-031. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 7)

38. The tract represented by File No. 6 is 40' x 88'. The St. Clair County Parcel Index No. for the file is 02-07.0-419-032. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 8)

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<sup>5</sup> The conveyance was from the St. Clair County, Trustee pursuant to the authority given by the County Board of St. Clair County, Illinois, under a resolution duly adopted on February 24, 1997.

<sup>6</sup> The conveyance was from the St. Clair County, Trustee pursuant to the authority given by the County Board of St. Clair County, Illinois, under a resolution duly adopted on June 24.

39. The tract represented by File No. 7 is 28' x 88'. The St. Clair County Parcel Index Number for the file is 02-07.0-419-033. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 9)

40. The tracts represented by File Nos. 5, 6, & 7 were consolidated into St. Clair County Parcel Index No. 02-07.0-419-045 in 1998 to become 1109 N. 14<sup>th</sup> Street, East St. Louis, Illinois. (Applicant's Ex. Nos. 7, 8, & 9)

41. The tract represented by File No. 8 is 12' x 88'. The St. Clair County Parcel Index No. for the file is 02-07.0-419-034. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 10)

42. The tract represented by File No. 9 is 40' x 88'. The St. Clair County Parcel Index No. for the file is 02-07.0-419-035. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 11)

43. In 1998, File Nos. 8 & 9 were consolidated into St. Clair County Parcel Index No. 02-07.0-419-045. The street address of the property is 1103 N. 14<sup>th</sup> Street, East St. Louis, Illinois. (Applicant's Ex. Nos. 10 & 11)

44. The tract represented by File No. 10 is 39.2' x 88'. The St. Clair County Parcel Index No. for the file is 02-07.0-419-036. At the time of the hearing it was a vacant lot. In 1998, it was also consolidated into St. Clair County Parcel Index No. 02-07.0-419-045. The street address of the property is 1101 N. 14<sup>th</sup> Street, East St. Louis, Illinois. (Applicant's Ex. No. 12)

45. On July 2, 1997, the applicant acquired St. Clair County Parcel Index Nos. 02-07.0-412-023, 02-07.0-412-025, 02-07.0-412-026, 02-07.0-407-035, 02-07.0-407-036, and 02-18.0-226-013 by a quitclaim deed from the Housing Authority of East St. Louis. Docket No. 97-82-43 represents those Parcel Index Nos. Since acquisition of the properties, residents of Emerson Park mow the areas using applicant's bush hog and lawn tractor and clear trash and debris from the parcels. St. Clair County Parcel Index No. 02-07.0-412-023 is commonly known as 1204 N. 11<sup>th</sup> Street (hereinafter referred to as "File No. 11"). St. Clair County Parcel Index No. 02-07.0-412-025 is commonly known as 1202 N. 11<sup>th</sup> Street (hereinafter referred to as "File

No. 12"). St. Clair County Parcel Index No. 02-07.0-412-026 is commonly known as 1200 N. 11<sup>th</sup> Street (hereinafter referred to as "File No. 13"). St. Clair County Parcel Index No. 02-07.0-407-035 is commonly known as 1201 N. 11<sup>th</sup> Street (hereinafter referred to as "File No. 14"). St. Clair County Parcel Index No. 02-07.0-407-036 (hereinafter referred as "File No. 15") is also commonly known as 1201 N. 11<sup>th</sup> Street. St. Clair County Parcel Index No. 02-18.0-226-013 (hereinafter referred to as "File No. 16") is commonly known as 1903 Weinman Avenue. (Dept. Grp. Ex. No. 5 pp. 1-9; Applicant's Ex. No. 25; Tr. pp. 62-63, 74-82; Please see attachment.)

46. File No. 11 was consolidated into St. Clair County Parcel Index No. 02-07.0-412-047 in 1998. The tract is 33' x 110'. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 13).

47. File No. 12 was consolidated into St. Clair County Parcel Index No. 02-07.0-412-047 in 1998. The tract is 32' x 110'. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 14)

48. File No. 13 was consolidated into St. Clair County Parcel Index No. 02-07.0-412-047 in 1998. The tract is 35' x 110'. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 15)

49. File No. 14 was consolidated into St. Clair County Parcel Index No. 02-07.0-407-051 in 1998. The tract is 44.58' x 88'. University of Illinois students cleared the property of trash, debris, and undergrowth in April or May 1998. Prior to 1998, the applicant had not done any maintenance clearing of the property. At the time of the hearing it was a vacant lot. On August 31, 1998, the applicant filed a motion to withdraw the request for exemption of property taxation for 1997 for this file. (Applicant's Ex. Nos. 16 & 25; Tr. pp. 77-78)

50. File No. 15 was also consolidated into St. Clair County Parcel Index No. 02-07.0-407-051 in 1998. The tract is 22.98' x 88'. University of Illinois students cleared the property of trash, debris, and undergrowth in April or May 1998. Prior to 1998, the applicant had not done any maintenance clearing of the property. At the time of the hearing it was a vacant lot. On

August 31, 1998, the applicant filed a motion to withdraw the request for exemption of property taxation for 1997 for this file. (Applicant's Ex. No. 17 & 25; Tr. pp. 77-78)

51. File No. 16 is a 124' x 250' tract. University of Illinois students cleared the property of trash, debris, and undergrowth in April or May 1998. Scotch pine trees were planted on the lot in May, 1995. The applicant acquired the deed to the property in 1997 but because the acquisition was part of a property exchange with the housing authority, the applicant was granted access to the property in 1995. The tree farm is part of the educational purpose of the applicant. In seven years when the trees are mature, the youth of the area may want to use them as a fundraiser for their recreation program at Lessie Bates. (Applicant's Ex. Nos. 18 & 25; Tr. pp. 79-82, 118-119)

52. On July 30, 1996, the applicant acquired St. Clair County Parcel Index Nos. 02-07.0-419-025 through 027 by a quitclaim deed from the St. Clair County Trustee<sup>7</sup>. The lot size of Docket No. 97-82-44 is 90' x 88'. In September, 1997 the applicant hired C. Belt Excavating to remove derelict structures, garages, concrete slabs, saplings, and trash from the parcels. Since clearance, the property is mowed every two to three weeks and kept cleared by neighborhood residents using applicant's equipment. St. Clair County Parcel Index No. 02-07.0-419-025 (hereinafter referred to as "File No. 17") is commonly known as 1110 Cottage Lane. St. Clair County Parcel Index No. 02-07.0-419-026 (hereinafter referred to as "File No. 18") is commonly known as 1108 Cottage Lane. St. Clair County Parcel Index No. 02-07.0-419-027 (hereinafter referred to as "File No. 19") is commonly known as 1106 Cottage Lane. (Dept. Grp. Ex. No. 6 pp. 1-6; Applicant's Ex. No. 25; Tr. pp. 82-86; Please see attachment.)

53. File No. 17 is a 30' x 88' tract. At the time of purchase it contained extensive rubbish and many trees. At the time of the hearing it was a vacant lot. (Applicant's Ex. Nos. 19 & 27; Tr. pp. 84-86)

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<sup>7</sup> The conveyance was from the St. Clair County, Trustee pursuant to the authority given by the County Board of St. Clair County, Illinois, under Resolution duly adopted on June 24.

54. File No. 18 is a 30' x 88' tract. In 1998 it was consolidated into St. Clair County Parcel Index No. 02-07.0-419-044. At the time of the hearing it was a vacant lot. (Applicant's Ex. No. 20)

55. File No. 19 is a 30' x 88' tract. At the time of purchase, it contained extensive amounts of trees and trash. In 1998 it was also consolidated into St. Clair County Parcel Index No. 02-07.0-419-044. At the time of the hearing it was a vacant lot. (Applicant's Ex. Nos. 21 & 28)

56. On March 18, 1997, the applicant acquired St. Clair County Parcel Index Nos. 02-18.0-221-018 through 020 by a quitclaim deed from the St. Clair County Trustee<sup>8</sup>. University of Illinois students cleared the parcels of trash, debris, and undergrowth in September, 1997. The parcels are mowed every two to three weeks and kept free of debris by neighborhood residents using the applicant's equipment. In October or November, 1997 the applicant hired Bruce Stennis, who is with Environmental Awareness 2000, to demolish the derelict structures, clear, grade, and seed the properties. St. Clair County Parcel Index No. 02-18.0-221-018 (hereinafter referred to as "File No. 20") is commonly known as 1838 Parsons Avenue. The tract is 40' x 110'. St. Clair County Parcel Index No. 02-18.0-221-019 (hereinafter referred to as "File No. 21") is commonly known as 1842 Parsons Avenue. The tract is 30' x 110. St. Clair County Parcel Index No. 02-18.0-221-020 (hereinafter referred to as "File No. 22") is commonly known as 0 Parsons Avenue. The tract is 30' x 110. File Nos. 20, 21, and 22 were vacant lots at the time of the hearing. (Dept. Grp. Ex. No. 7 pp. 1-6; Applicant's Ex. Nos. 22-25; Tr. pp. 87-89)

#### Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

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<sup>8</sup> The conveyance was from the St. Clair County, Trustee pursuant to the authority given by the County Board of St. Clair County, Illinois, under a resolution duly adopted on February 24, 1997.

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 **ILCS** 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .

Here, the appropriate exemption applies to institutions of public charity. Illinois courts have long refused to apply this exemption absent suitable evidence that the property in question is owned by an institution of public charity and exclusively used for purposes which qualify as charitable within the meaning of Illinois law. Methodist Old People's Home v. Korzen, 39 Ill.2d



149, 156 (1968) (hereinafter referred to as "Methodist Old People's Home"). They have also ascribed to the following definition of charity originally articulated in Crerar v. Williams, 145 Ill. 625, 643 (1893):

... a charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.

The Illinois Supreme Court has effectuated this definition by observing that all institutions of public charity share the following distinctive characteristics:

- 1) they have no capital stock or shareholders;
  - 2) they earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters;
  - 3) they dispense charity to all that need and apply for it;
  - 4) they do not provide gain or profit in a private sense to any person connected with it; and,
  - 5) they do not appear to place obstacles of any character in the way of those that need and would avail themselves of the charitable benefits it dispenses.
- Methodist Old People's Home at 157.

This applicant has no capital stock or shareholders. They earn no profits or dividends and derive their money from grants, which are public and private charities. They hold those funds in trust for the purposes expressed in their charter. The applicant dispenses charity to all who need and apply for it, they do not provide gain or profit in a private sense to any person connected with them, and they do not appear to place obstacles in the way of those that need and want to avail themselves of the applicant's services. I therefore find that the applicant is a charitable organization. Thus, the only remaining question is whether the applicant used the twenty-two parcels at issue for charitable purposes.

The applicant herein has asked for property tax exemptions for the 1997 assessment year. The applicant purchased the properties in 1996 and 1997. The applicant then had to do extensive clean up of the subject parcels. The applicant stated at the hearing that its primary purpose is to clear and maintain its properties.

The applicant cites Norwegian Amer. Hosp. v. Dept. of Revenue, 210 Ill.App.3d 318 (1<sup>st</sup> Dist. 1991) (hereinafter referred to as Norwegian) in support of its argument that the properties at issue qualify for a property tax exemption. Norwegian involved a not-for-profit hospital that was located in a run-down area of the West Side of Chicago. The hospital purchased abandoned, derelict buildings around the hospital proper and demolished the structures creating a “green” area by which the employees and patients could enter the hospital area without fear of criminal activity. As the applicant correctly states in its brief, the court held that the hospital’s property improvement constituted a use that was reasonably necessary to the exempt use of the hospital and for the continued survival and efficient administration of the hospital. The court therefore granted a property tax exemption for the land at issue therein.

Norwegian and the facts involved in that case can be distinguished from the facts before me. Norwegian hospital had a master campus plan and corporate identity program and the purchase of the properties at issue in Norwegian was integral to that plan. The land at issue in Norwegian was either contiguous or scattered amongst private residences near the hospital. The areas were incorporated into the campus plan and the exempt use of the subject hospital. They were necessary to the survival of the non-profit care-giving organization. In the facts at issue herein, the properties are not contiguous or used in conjunction with a larger entity that has an exempt parcel. There is no master plan for an exempt non-profit care-giving organization. Although the applicant clears and mows the subject parcels in anticipation of eventually building low-income housing on the parcels, that use has not begun on the vacant properties at issue.

In the case of People ex. rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that a property was intended to be used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt.

Each of the subject parcels herein was acquired by the applicant with the intent to be used for independent, future acquisition by a low-income family as the location of a new low-income

family home. Each of those events is independent of each other. I find these facts distinguish the facts at issue from those found in Norwegian.

File Nos. 4 through 22 were vacant lots at the time of the hearing. The Illinois Appellate Court found that a church-owned building, which was not used for any purpose and was boarded up during the taxable years in question did not qualify for a property tax exemption for those years. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1<sup>st</sup> Dist. 1983). In addition, the Fifth District Appellate Court held that eighteen vacant lots did not qualify for a property tax exemption in Comp. Train. & Devel. v. Co. of Jackson, 261 Ill.App.3d 37 (5<sup>th</sup> Dist. 1994).

I therefore find that File Nos. 4 through 22 did not qualify for a property tax exemption for the 1997 assessment year.

In the case of Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2<sup>nd</sup> Dist, 1987) the Appellate Court held that property which was under development and adaptation for exempt use, qualified for exemption. In that case, Weslin Properties purchased a 24.3-acre tract on May 26, 1983 to be developed into an Urgent Care Center, hospital, and related medical facilities. During 1983, Weslin Properties. approved a site plan and hired an architect. Then in 1984, construction of the Urgent Care facility began. In 1985, the Urgent Care Center was completed and occupied. The Court held that the Urgent Care facility qualified for exemption during 1983, but that the remainder of the parcel did not qualify, as there had not been sufficient adaptation and development for use of the remainder of said parcel during 1983.

Three of the subject parcels, those represented by File Nos. 1-3, have been combined into two 65-foot lots and an additional 20-foot area. By the time of the hearing, a house had been erected on each of the two 65-foot lots. Each house is to be purchased by a family that qualifies through applicant's Neighborhood-Based Family Housing Program as a low-income family. The applicant purchased the tracts represented by File Nos. 1-3 on March 18, 1997. In May, students from the University of Illinois cleared trash and undergrowth from the lots. In September, C. Belt Excavating removed a buried foundation and hundreds of trees from the lots. A survey was

completed of the lots by April, 1998 and footings were staked. In May, 1998 footings and a foundation were poured for a new home for a low-income family on each of the two 65' lots. By August, 1998 the homes were completed.

I find that the applicant has shown that sufficient adaptation was conducted on the portions of those three parcels that the houses are located upon to qualify for a property tax exemption for the 1997 assessment year. Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1<sup>st</sup> Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, *supra*.

It is therefore recommended that the two 65' lots that are part of File Nos. 1-3 qualify for exemption from the period of March 18, 1997, through December 31, 1997, or for 79% of the 1997 assessment year, the portion of the assessment year that the applicant owned the parcels. It is also recommended that the 20' portion of File Nos. 1-3 that is to be combined with a corner lot in the future, as well as the lots represented by File Nos. 4 through 22, remain on the St. Clair County tax rolls for the 1997 assessment year.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge  
May 4, 1999

**Attachment to A.H. Docket No. 98-PT-0037**

<u>Docket Number</u>	<u>1997 Parcel Index Number</u>	<u>1998</u>	<u>Corresponding street address</u>	<u>File #</u>
97-82-38	02-07.0-419-003	a	1306 Winslanley Avenue	# 1
	02-07.0-419-004		1308 Winslanley Avenue	# 2
	02-07.0-419-005		1310 Winslanley Avenue	# 3
97-82-39	02-07.0-407-031		1200-1211 N. 11th Street	# 4
97-82-42	02.07.0-419-031	b	1101	# 5
	02.07.0-419-032			# 6
	02.07.0-419-033		through 1109	# 7
	02.07.0-419-034			# 8
	02.07.0-419-035		North 14 <sup>th</sup> Street	# 9
	02.07.0-419-036			#10
97-82-43	02-07.0-412-023	c	1204 N. 11th Street	#11
	02-07.0-412-025		1202 N. 11th Street	#12
	02-07.0-412-026		1200 N. 11th Street	#13
	02-07.0-407-035	d	1201 N. 11th Street	#14
	02-07.0-407-036		" " " "	#15
	02-18-0-226-013		1903 Weinman Avenue	#16
97-82-44	02-07.0-419-025	e	1110 Cottage Lane	#17
	02-07.0-419-026		1108 Cottage Lane	#18
	02-07.0-419-027		1106 Cottage Lane	#19
97-82-59	02-18.0-221-018		1838 Parsons Avenue	#20
	02-18.0-221-019		1842 Parsons Avenue	#21
	02-18.0-221-020		0 Parsons Avenue	#22

Service List

1998 Parcel Index Nos.

Kathleen O'Keefe  
 Neighborhood Law Office  
 705 Summit Avenue  
 East St. Louis, Illinois 62201

a) 02-07.0-419-043  
 b) 02-07.0-419-045  
 c) 02-07.0-419-047  
 d) 02-07.0-419-051  
 e) 02-07.0-419-044

Mr. Percy McKinney  
 County Assessor  
 St. Clair County Courthouse  
 10 Public Square  
 Belleville, Illinois 62220-1623

**Attachment to A.H. Docket No. 98-PT-0037**

Docket Number	Parcel Index Number	Corresponding street address	File #
97-82-38	02-07.0-419-003	1306 Winslanley Avenue	# 1
	02-07.0-419-004	1308 Winslanley Avenue	# 2
	02-07.0-419-005	1310 Winslanley Avenue	# 3
97-82-39	02-07.0-407-031	1200-1211 N. 11th Street	# 4
97-82-42	02.07.0-419-031	1101	# 5
	02.07.0-419-032		# 6
	02.07.0-419-033	through 1109	# 7
	02.07.0-419-034		# 8
	02.07.0-419-035	North 14 <sup>th</sup> Street	# 9
	02.07.0-419-036		#10
97-82-43	02-07.0-412-023	1204 N. 11th Street	#11
	02-07.0-412-025	1202 N. 11th Street	#12
	02-07.0-412-026	1200 N. 11th Street	#13
	02-07.0-407-035	1201 N. 11th Street	#14
	02-07.0-407-036	" " " "	#15
	02-18.0-226-013	1903 Weinman Avenue	#16
97-82-44	02-07.0-419-025	1110 Cottage Lane	#17
	02-07.0-419-026	1108 Cottage Lane	#18
	02-07.0-419-027	1106 Cottage Lane	#19
97-82-59	02-18.0-221-018	1838 Parsons Avenue	#20
	02-18.0-221-019	1842 Parsons Avenue	#21
	02-18.0-221-020	0 Parsons Avenue	#22